

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS – TYLER DIVISION

HTI IP, LLC et al.,

Plaintiffs,

vs.

DriveOK, Inc., et al.,

Defendants.

Xirgo Technologies, LLC,

Counterclaimant,

vs.

HTI IP, LLC and NetworkFleet, Inc.,

Counter-defendants.

Civil Action No: 6:09-cv-370 LED
Jury

**DEFENDANT XIRGO TECHNOLOGIES, LLC’S ANSWER TO PLAINTIFFS’
AMENDED COMPLAINT**

Defendant/counterclaimant Xirgo Technologies, LLC (“Xirgo”) responds to plaintiffs/counter-defendants’ HTI IP, LLC and NetworkFleet Inc.’s Amended Complaint for Patent Infringement as follows:

ANSWER

1. Xirgo admits the allegations contained in paragraph 1 of the complaint.
2. Xirgo admits the allegations contained in paragraph 2 of the complaint.
3. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 3, and, on that basis denies them.
4. Xirgo admits the allegations contained in paragraph 4 of the complaint.

5. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 5, and, on that basis denies them.

6. Xirgo admits the allegations contained in paragraph 6 of the complaint.

7. Xirgo admits the allegations contained in paragraph 7 of the complaint.

8. Xirgo admits the allegations contained in paragraph 8 of the complaint.

9. Xirgo admits the allegations contained in paragraph 9 of the complaint.

10. Xirgo denies the allegations contained in paragraph 10 of the complaint.

11. Xirgo denies the allegations contained in paragraph 11 of the complaint.

12. Xirgo denies the allegations contained in paragraph 12 of the complaint.

13. Xirgo denies the allegations contained in paragraph 13 of the complaint.

14. Xirgo admits that on July 15, 2003, the United States Patent and Trademark Office issued U.S. Patent No. 6,594,579 (“the ‘579 patent”) entitled “*Internet-Based Method for Determining a Vehicle’s Fuel Efficiency*” to Larkin Hill Lowrey, Bruce Lightner, Matthew J. Banet, Diego Borrego, Chuck Myers and James Cowart. Xirgo admits that a copy of the ‘579 Patent is attached as Exhibit A. Xirgo lacks sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 13, and, on that basis denies them.

15. Xirgo admits that on August 5, 2003, the United States Patent and Trademark Office issued U.S. Patent No. 6,604,033 (“the ‘033 patent”) entitled “*Wireless Diagnostic System for Characterizing a Vehicle’s Exhaust Emissions*” to Matthew J. Banet, Bruce Lightner, Diego Borrego, Chuck Myers and Larkin Hill Lowrey. Xirgo admits that a copy of the ‘033 Patent is attached as Exhibit B. Xirgo lacks sufficient knowledge or

information to admit or deny the remaining allegations contained in paragraph 14, and, on that basis denies them.

16. Xirgo admits that on October 21, 2003, the United States Patent and Trademark Office issued U.S. Patent No. 6,636,790 (“the ‘790 patent”) entitled “*Wireless Diagnostic System and Method for Monitoring Vehicles*” to Bruce Lightner, Diego Borrego, Chuck Myers, and Larkin Hill Lowrey. Xirgo admits that a copy of the ‘790 Patent is attached as Exhibit C. Xirgo lacks sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 15, and, on that basis denies them.

17. Xirgo admits that on May 4, 2004, the United States Patent and Trademark Office issued U.S. Patent No. 6,732,031 (“the ‘031 patent”) entitled “*Wireless Diagnostic System for Vehicles*” to Bruce Lightner, Diego Borrego, Chuck Myers, and Larkin Hill Lowrey. Xirgo admits that a copy of the ‘031 Patent is attached as Exhibit D. Xirgo lacks sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 16, and, on that basis denies them.

18. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 18, and, on that basis denies them.

19. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 19, and, on that basis denies them.

20. Xirgo denies the allegations contained in paragraph 20 of the complaint.

21. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 21, and, on that basis denies them.

22. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 22, and, on that basis denies them.
23. Xirgo denies the allegations contained in paragraph 23 of the complaint.
24. Xirgo repeats and incorporates by reference its responses to paragraphs 1-23.
25. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 25, and, on that basis denies them.
26. No answer required to paragraph 26 of the complaint.
27. No answer required to paragraph 27 of the complaint.
28. No answer required to paragraph 28 of the complaint.
29. No answer required to paragraph 29 of the complaint.
30. No answer required to paragraph 30 of the complaint.
31. No answer required to paragraph 31 of the complaint.
32. Xirgo repeats and incorporates by reference its responses to paragraphs 1-31.
33. Xirgo lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 33, and, on that basis denies them.
34. No answer required to paragraph 34 of the complaint.
35. No answer required to paragraph 35 of the complaint.
36. No answer required to paragraph 36 of the complaint.
37. No answer required to paragraph 37 of the complaint.
38. Xirgo repeats and incorporates by reference its responses to paragraphs 1-37.
39. No answer required to paragraph 39 of the complaint.
40. No answer required to paragraph 40 of the complaint.

41. No answer required to paragraph 41 of the complaint.
42. No answer required to paragraph 42 of the complaint.
43. Xirgo denies the allegations contained in paragraph 43 of the complaint.
44. Xirgo denies the allegations contained in paragraph 44 of the complaint.
45. Xirgo denies the allegations contained in paragraph 45 of the complaint.
46. Xirgo denies the allegations contained in paragraph 46 of the complaint.
47. Xirgo repeats and incorporates by reference its responses to paragraphs 1-46.
48. No answer required to paragraph 48 of the complaint.
49. No answer required to paragraph 49 of the complaint.
50. No answer required to paragraph 50 of the complaint.
51. No answer required to paragraph 51 of the complaint.
52. Xirgo denies the allegations contained in paragraph 52 of the complaint.
53. Xirgo denies the allegations contained in paragraph 53 of the complaint.
54. Xirgo denies the allegations contained in paragraph 54 of the complaint.
55. Xirgo denies the allegations contained in paragraph 55 of the complaint.
56. Xirgo denies that Plaintiff is entitled to any of the relief requested in paragraphs (a)-(f) of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE – FAILURE TO STATE A CLAIM

57. Plaintiffs fail to state a claim for which relief may be granted.

SECOND AFFIRMATIVE DEFENSE – NON-INFRINGEMENT OF ‘790 PATENT

58. Xirgo does not directly infringe or induce or contribute to the infringement of the '790 patent.

THIRD AFFIRMATIVE DEFENSE – INVALIDITY OF '790 PATENT

59. U.S. Patent No. 6,636,790 is invalid.

FOURTH AFFIRMATIVE DEFENSE – NON-INFRINGEMENT OF '031 PATENT

60. Xirgo does not directly infringe or induce or contribute to the infringement of the '031 patent.

FIFTH AFFIRMATIVE DEFENSE – INVALIDITY OF '031 PATENT

61. U.S. Patent No. 6,732,031 is invalid.

SIXTH AFFIRMATIVE DEFENSE – ESTOPPEL

62. Plaintiffs claim and requested relief is barred, in whole or in part, by the equitable doctrines of estoppel.

SEVENTH AFFIRMATIVE DEFENSE – LACHES

63. Plaintiffs are guilty of laches.

EIGHTH AFFIRMATIVE DEFENSE – UNCLEAN HANDS

64. Plaintiffs have unclean hands.

REQUEST FOR RELIEF

WHEREFORE, Xirgo requests that this court:

- a) Dismiss the complaint.
- b) Award plaintiffs nothing.
- c) Hold the '790 and '031 patents invalid.

- d) Hold that Xirgo does not directly infringe or induce or contribute to the infringement of either the '790 or '031 patents.
- e) Award Xirgo its costs.
- f) Award Xirgo any other and further relief as this court may deem appropriate.

January 29, 2010

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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2010, I electronically filed the foregoing document “Answer of Defendant Xirgo Technologies, LLC” using the Case Management/Electronic Case Filing (CM/ECF) system per Local Rule CV-5(a)(3), which will send a Notice of Electronic Filing of the document to the CM/ECF participants. I will serve any other counsel of record who are not registered with CM/ECF by email and/or first class mail on the same date.

January 29, 2010

| /s/ M. Kala Sarvaiya
| M. Kala Sarvaiya